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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 678-614 (P9725)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on December 14, 2006

Signature: [signature]

Typed or printed name: Thomas C. Schoeffler

Application Number	Filed
09/853,102	May 10, 2001

First Named Inventor: KO, Moon-Jung

Art Unit	Examiner
2617	WILLIE, Daniel J.Jr.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration number 33,494
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

[signature]
Signature

Paul J. Farrell
Typed or printed name

516-228-3565
Telephone number

December 14, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[X] *Total of 1 forms are submitted.

PATENT APPLICATION
Response under 37 C.F.R. § 1.116–
Expedited Procedure – Examining Group Art Unit 2617
Attorney Docket: 678-614 (P9725)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	KO, Moon-Jung	**EXAMINER:**	WILLIE, Daniel J. Jr.
SERIAL NO.:	09/853,102	**ART UNIT:**	2617
FILED:	May 10, 2001	**DATED:**	December 14, 2006

FOR: **APPARATUS AND METHOD FOR CONTROLLING OPENING AND CLOSING OF SUB-BODY IN AN AUTOMATICALLY AND MANUALLY FOLDABLE PORTABLE WIRELESS TERMINAL**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Advisory Action dated December 5, 2006, please consider the following remarks.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Dated: December 14, 2006

Thomas C. Schoeffler

REMARKS

Claims 1, 2 and 4-8 are pending in the application, with Claims 1, 4 and 6-8 being independent claims. Claims 1 and 4-8 have been finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lim (U.S. Patent No. 6,628,974 B1) in view of Iwata (U.S. Patent No. 5,723,959) and Lemirande (U.S. Patent No. 4,394,607). Claim 2 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

This request is being submitted because the Examiner has failed to show the first and second sensors set forth in independent Claims 1 and 3, and the Examiner has failed to show proper motivation for making a modification of the Lim reference.

The Examiner relies on position detectors 51 and 52 in Lim for satisfying the claimed first and second sensors, respectively. The claimed first sensor recites, in part, sensing a complete opening of the sub-body from the main body. The claimed second sensor recites, in part, sensing a complete closing of the sub-body onto the main body.

Lim explains in col. 6, line 60, to col. 7, line 3, that position detecting section 50 includes position detectors 51 and 52 installed on the positions of the power transferring section 20 and the rotating section 10 to face each other, and these position detectors 51 and 52 obtain the same-phase information and apply a specified control signal to the driving section 11. If the rotating section 10 and the power transferring section 20 have the same phase, the position detecting section 50 detects it, and applies the stop control signal to the driving section 11 to control the driving section 11. Position detectors 51 and 52 merely sense whether the rotating section 10 and the power transferring section have the same phase, and Lim nowhere teaches or reasonably suggests utilizing position detectors 51 and 52 to detect a fully open status or a fully closed status of the folder 2 on the main body 3.

Accordingly, Lim fails to teach or reasonably suggest the first and second sensors recited in the claims.

Lim only discontinues driving the motor based on a single condition that a position detecting means has the same phase. In contrast, the present invention discontinues driving the motor based on two conditions including (1) where an amount of motor drive current is larger than a predetermined threshold value and (2) that a sensor means senses either one of a fully open status or a fully closed status of a sub-body.

The present invention discontinues to drive a motor on both of the above conditions and, therefore, the present invention can appropriately and more exactly control a closing and opening position of the sub-body.

The present invention is directed to a method and device for controlling the opening/closing of a sub-body in an automatically and manually folded portable wireless terminal. The present invention enhances user convenience by realizing efficient opening and closing of a sub-body of an automatically and manually folded portable wireless terminal.

Lim is analogous art because Lim describes a cellular phone in which a folder can be opened and closed both automatically and manually. Iwata describes a power window driving control device which moves a window glass of a vehicle in vertical directions by the driving force of a motor. An object of Iwata is to provide a power window driving control device in which a foreign object is not continued to be caught between a window glass and a window frame even if a foreign object exists on the path along which the window glass is raised.

Iwata describes a motor that is large and includes numerous relays and switches, and effects vertical movement of a window glass. In contrast, the motor of the present invention

is small and positioned inside a hinge, and rotates either in a clockwise direction to open the sub-body or a counterclockwise direction to close the sub-body.

Iwata is non-analogous art because Iwata is not reasonably pertinent to the particular problem with which Applicants were concerned. Evidence of non-analogy is apparent because Iwata is classified in 318/447 while Lim is classified in 455/575. Further evidence of non-analogy is based on the differences in structure and function of Iwata to the present invention. Differences in structure and function of Iwata to the present invention carry far greater weight regarding analogy of Iwata to the present invention. *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973).

Iwata is not applicable to addressing obviousness of the subject matter at issue because Iwata is not in the field of Applicant's endeavor and is not reasonably pertinent to the particular problem with which the invention is concerned. For a reference to be applicable to addressing obviousness of the subject matter at issue, the reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned. *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

Furthermore, Applicant again insists that one skilled in the art at the time the invention was made would not have arrived at the present invention based on Lim, Iwata, Lemirande, or any combination thereof, because the skilled artisan would not combine a driving mechanism for a power window in an automobile to prevent crushing an object in the closing window, with a driving mechanism for opening a sub-body of a cellular phone.

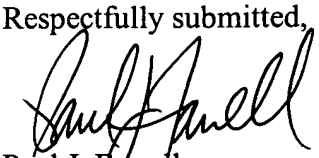
The Examiner has failed to establish a *prime facie* case of obviousness for at least these reasons.

Accordingly, independent Claims 1, 4 and 6-8 are allowable over Lim, Iwata, Lemirande, or any combination thereof.

While not conceding the patentability of the dependent claims, *per se*, Claim 5 is also allowable for at least the above reasons.

Accordingly, all of the claims pending in the Application, namely, Claims 1, 2 and 4-8, are in condition for allowance.

Respectfully submitted,



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